

REMARKS:

CLAIM AMENDMENTS

To expedite prosecution, the Applicants have amended claim 1 to incorporate the features of claim 10. The Applicants submit that this amendment adds a limitation, but does not narrow any
5 limitation of claim 1 within the meaning of the decision in *Festo Corp. v. Shoketsu Kogyo Kabushiki Co., Ltd.*, 234 F3d 558, 566, 56 U.S.P.Q.2d 1865 (Fed. Cir. 2000) 535 U.S. 722, 152 L. Ed. 2d 944, 122 S. Ct. 1831, (2002). Furthermore, the Applicants have amended claims 11-14 to depend from claim 1, instead of claim 10, which has been canceled. In addition, to further expedite prosecution, the Applicants have canceled withdrawn claims 17-22 and 25 without
10 prejudice to the filing of a divisional application directed to these claims.

ALLOWABLE SUBJECT MATTER

The Applicants appreciate the Examiner's allowance of claims 16 and 24

CLAIM REJECTIONS

35 USC 112

15 The Examiner has rejected claims 14 and 15 under 35 U.S.C. 112, second paragraph as being indefinite. In rejecting the claims, the Examiner states that there is insufficient antecedent basis for "etch-stop layer" in claim 14. In response, the Applicants have amended claim 14 to change "the etch-stop layer" to --an etch-stop layer--. As such, there is sufficient antecedent basis and the Applicants respectfully request that the rejection be withdrawn. Furthermore, the Applicants
20 submit that this amendment merely makes explicit that which was implicit in claim 14 as originally filed. As such this amendment does not narrow any limitation of claim 14 or 15 within the meaning of the decision in *Festo Corp. v. Shoketsu Kogyo Kabushiki Co., Ltd.*, 234 F3d 558, 566, 56 U.S.P.Q.2d 1865 (Fed. Cir. 2000) 535 U.S. 722, 152 L. Ed. 2d 944, 122 S. Ct. 1831, (2002).

25 35 USC 102

The Examiner has rejected claims 1-15, and 23 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,747,353 to Bashir et al. (hereinafter Bashir). In rejecting the claims the Examiner states that Bashir, discloses a method for controlled release of structures comprising forming one

or more trenches (121) in a layer of device material (figure 2); filling one or more selected trenches with an etch-stop material (polysilicon) to form one or more etch-stop trenches (figure 3); defining one or more structures (142) between the selected trenches; and etching one or more portions of the device layer between the etch-stop trenches to release the structures, wherein the etching does not etch the etch-stop material (figure 8). The Examiner further states that Bashir teaches the features of claims 2-13 and 23. Specifically, with respect to claim 10 the Examiner states that Bashir teaches forming a structural layer (142) proximate one or more exposed areas of the device layer.

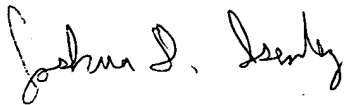
The Applicant respectfully traverses the rejection. The applicant has canceled claim 10 and amended claim 1 to include the features of claim 10. Therefore the rejection of claim 10 is moot. Upon close inspection of Bashir it is apparent that 142 is not a structural layer. Instead it is one of the structures defined by the etch stop trenches. Therefore, the Applicants submit that structure 142, which the Examiner refers to as a structural layer, is, in fact, a portion of the device layer. The Applicants submit that Figures 9 and 11 of Bashir clearly show that the structure 142 has no structural layer formed on it. Thus, Bashir does not describe forming any structural layer proximate one or more exposed areas of the device layer as presently recited in claim 1. Thus, Bashir does not teach or suggest all the limitations of claim 1 as it presently stands in the application. As such, claim defines an invention suitable for patent protection.

Furthermore, claims 2-9 and 11-15 depend, either directly or indirectly on claim 5 and recite additional features therefor. As such, and for the same reasons set forth above, these dependent claims define an invention suitable for patent protection.

CONCLUSION

For the reasons set forth above, the Applicant submits that all claims are allowable over the cited art and define an invention suitable for patent protection. Furthermore, for the reasons set forth
5 above, the Applicant submits that the claims are neither vague nor indefinite. The Applicants therefore respectfully request that the Examiner enter the amendment, reconsider the application, and issue a Notice of Allowance in the next Office Action.

Respectfully submitted,

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